

Wyatt A. Lison (SBN – 316775)
**FEINSTEIN DOYLE PAYNE
& KRAVEC, LLC**
429 Fourth Avenue
Law & Finance Building, Suite 1300
Pittsburgh, PA 15219
Telephone: (412) 281-8400
Facsimile: (412) 281-1007
Email: wlison@fdpklaw.com

Monique Olivier (SBN – 190385)
Christian Schreiber (SBN – 245597)
OLIVIER & SCHREIBER LLP
475 14th Street, Suite 250
Oakland, CA 94612
Telephone: (415) 484-0980
Facsimile: (415) 658-7758
Email: monique@os-legal.com
Email: christian@os-legal.com

ATTORNEYS FOR PLAINTIFFS

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CARLA JACKSON, DENISE GRIFFIN,
and JAMIE PETTIT, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

ALLSTATE NORTHBROOK INDEMNITY
COMPANY and ESURANCE PROPERTY
AND CASUALTY INSURANCE
COMPANY,

Defendants.

Case No.: 4:22-cv-02628-JST

**STIPULATION TO STAY ALL
PROCEEDINGS PENDING OUTCOME
OF RELATED SUPERIOR COURT
ACTION AND ~~PROPOSED~~ ORDER
*AS MODIFIED***

1 Plaintiffs Carla Jackson, Denise Griffin, and Jamie Pettit (collectively “Plaintiffs”) and
 2 Defendants Allstate Northbrook Indemnity Company and Esurance Property and Casualty Insurance
 3 Company (collectively, “Defendants”), by and through their counsel of record, hereby stipulate, agree
 4 and respectfully request that this Court enter an Order as follows:

5 WHEREAS, on March 22, 2022, Plaintiffs filed their Complaint in this putative class action in
 6 the Superior Court of the State of California, County of Alameda, Case. No. 22CV008706 (ECF No.
 7 1-1), challenging Defendants’ use of marital status as rating factor in setting premiums for private
 8 passenger motor vehicle liability insurance policies in California as violative of California’s Rosenthal
 9 Auto Insurance Nondiscrimination Law (“RAIN Law”) and Unruh Civil Rights Act (“Unruh Act”);

10 WHEREAS, on April 29, 2022, Defendants filed their Notice of Removal in this Court (ECF
 11 No. 1);

12 WHEREAS, Plaintiffs contend that a core legal issue in the instant putative class action is
 13 whether the Commissioner of the California Department of Insurance’s regulations permitting the use
 14 of marital status as an optional premium rating factor in setting premiums for private passenger motor
 15 vehicle liability insurance policies is invalid in light of the RAIN Law and Unruh Act specifically
 16 prohibiting discrimination based upon marital status;

17 WHEREAS, on March 7, 2022, Plaintiffs, along with other individuals not party to the instant
 18 class action, separately filed a Petition for Writ of Mandate (the “Petition”) in the Superior Court of the
 19 State of California, County of Alameda, against the Commissioner of the California Department of
 20 Insurance (“Commissioner”), *Ison et al. v. Commissioner of the California Department of Insurance*,
 21 Case No. 22CV008022, pending in Department 20 before Judge Richard Seabolt, seeking an order
 22 determining that the regulations are invalid and compelling the Commissioner to rescind the regulations
 23 that allow private passenger motor vehicle insurers to use marital status as an optional premium rating
 24 factor or otherwise amend the regulations to eliminate use of marital status as an optional premium
 25 rating factor, and to require all private passenger motor vehicle insurers whose current class plans use
 26 marital status as a premium rating factor to file new class plans eliminating marital status as a premium
 27 rating factor;

1 WHEREAS, Plaintiffs contend that the core legal issues presented by the Petition, namely
 2 whether the RAIN Law and Unruh Act prohibit marital status discrimination as a premium rating factor
 3 and whether the Commissioner's existing regulations which permit such discrimination are invalid,
 4 overlap with the core legal issues presented in the instant class action;

5 WHEREAS, Plaintiffs and Defendants agree that judicial economy and efficiency would be
 6 advanced by resolving the Petition challenging the validity of the Commissioners' regulations in the
 7 Writ of Mandate proceedings before proceeding with this action; and therefore, the Parties favor a stay
 8 of all proceedings in the instant class action pending resolution of the Petition;

9 WHEREAS, the United States Supreme Court has ruled that, "the power to stay proceedings is
 10 incidental to the power inherent in every court to control the disposition of the causes on its docket with
 11 economy of time and effort for itself, for counsel, and for litigants." (*Landis v. North American Co.*,
 12 299 U.S. 248, 255 (1936));

13 WHEREAS, this Court has discretion to order a stay of all proceedings in this action pending
 14 the resolution of the Petition;

15 WHEREAS, Plaintiffs and Defendants agree that ordering a stay of all proceedings in this action
 16 pending resolution of the Petition is proper for the reasons set forth herein;

17 WHEREAS, as in this action where the parties are requesting a stay pending the resolution of a
 18 petition for writ of mandate filed in a California superior court, the resolution of which likely will bear
 19 on legal issues in this action, several U.S. District Courts in California have similarly granted stays of
 20 actions before them pending resolution of a petition for writ of mandate separately filed in a California
 21 superior court (*See Applegate v. Trausch*, No. 1:15-cv-00811 AWI DLB PC, 2016 U.S. LEXIS 41574,
 22 at *3-5 (E.D. Cal. Mar. 29, 2016) (citing *Landis* as authority to order stay of case); *Thornbrough v. W.*
 23 *Placer Unified Sch. Dist.*, No. 2:09-cv-02613-GEB-GGH, 2010 U.S. Dist. LEXIS 94021, at *2-9 (E.D.
 24 Cal. Aug. 23, 2010) (also citing *Landis* as authority to grant stay of case);

25 WHEREAS, the California Superior Court's ruling on the Petition regarding the validity of the
 26 Commissioner's regulations permitting use of marital status as a premium rating factor likely will also
 27 impact and inform the course of litigation in this action, potentially narrowing the legal issues and
 28 streamlining discovery;

1 WHEREAS, the Respondent Commissioner in *Ison et al. v. Commissioner of the California*
 2 *Department of Insurance*, Case No. 22CV008022, Superior Court of the State of California, County of
 3 Alameda, has already answered the Petition and the parties are now engaged in discovery, showing that
 4 the proceedings in *Ison et al. v. Commissioner of the California Department of Insurance* will likely be
 5 concluded within a reasonable time in relation to the urgency of the claims presented in the instant
 6 action;

7 WHEREAS, the parties in this action will not be prejudiced by the Court ordering a stay of all
 8 proceedings in this action pending the resolution of the Petition, and once the stay is lifted, Defendants
 9 reserve all of their rights in defense of the claims, including but not limited to the right to seek dismissal
 10 of the claims;

11 WHEREAS, Defendants expressly reserve their right to move to dismiss Plaintiffs' claims on
 12 any ground, and Plaintiffs agree that Defendants' entry into this stipulation and request for stay does
 13 not waive any argument that Plaintiffs' claims are subject to dismissal;

14 WHEREAS, the Parties disagree as to whether this case is related to *Amaya, et al. v. GEICO*
 15 *Indemnity Company, et al.*, 4:22-cv-02334-YGR (the "*GEICO* Action") and *Griffin, et al. v.*
 16 *Progressive West Insurance Company, et al.*, 4:22-cv-02634-YGR (the "*Progressive* Action").
 17 Defendants have filed an Administrative Motion to Determine Whether Cases Are Related in the
 18 *GEICO* Action and lodged the Administrative Motion in this action and the *Progressive* Action.
 19 Plaintiffs have indicated they intend to oppose the Administrative Motion. By entering into this
 20 stipulation, the Parties do not intend to prejudice or abandon their positions related to the
 21 Administrative Motion, and expressly reserve them;

22 The parties hereby enter into the following Stipulation.

23 **STIPULATION**

24 IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the parties, that:

- 25 i. A stay of all proceedings in this action pending resolution of the Petition for Writ of
 26 Mandate filed with the Superior Court of the State of California, County of Alameda in *Ison*
 27 *et al. v. Commissioner of the California Department of Insurance*, Case No. 22CV008022,
 28

is proper as it will promote the interests of justice and judicial economy and efficiency and will not prejudice the parties.

- ii. All proceedings in this action are stayed pending resolution of the Petition.
- iii. Entry of this Stipulation to Stay All Proceedings Pending Outcome of Related Superior Court Action is without prejudice to any party subsequently seeking leave to vacate or to modify the stay, and Defendants retain all rights to oppose the claims in this case, including but not limited to their right to seek dismissal of the claims, in whole or in part.

Dated: June 1, 2022

**FEINSTEIN DOYLE PAYNE
& KRAVEC, LLC**

By: s/ Wyatt A. Lison
Wyatt A. Lison
Attorney for Plaintiffs CARLA
JACKSON, DENISE GRIFFIN, and
JAMIE PETTIT and the Proposed Class

Dated: June 1, 2022

WINSTON & STRAWN LLP

By: s/ Margaret E. Dayton
Margaret E. Dayton
Attorney for Defendants ALLSTATE
NORTHBROOK INDEMNITY
COMPANY and ESURANCE
PROPERTY AND CASUALTY
INSURANCE COMPANY

ATTESTATION

I, Wyatt A. Lison, am the ECF User whose ID and password is being used to file this Stipulation to Stay All Proceedings Pending Outcome of Related Superior Court Action and [Proposed] Order. I attest that concurrence in the filing of this document has been obtained from all counsel whose signatures appear. I declare under penalty of perjury that the foregoing is true and correct.

s/ Wyatt A. Lison
Wyatt A. Lison

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. All proceedings in this action are stayed pending the resolution of the Petition for Writ of Mandate filed with Superior Court of the State of California, County of Alameda in *Ison et al. v. Commissioner of the California Department of Insurance*, Case No. 22CV008022. Entry of this stay is without prejudice to any party subsequently seeking leave to vacate or modify the stay.

Dated: June 10, 2022


HONORABLE JON STIGAR
UNITED STATES DISTRICT JUDGE